THE WANADA® BULLETIN

NEWS AND INFORMATION FOR AND ABOUT FRANCHISED NEW CAR DEALERS IN THE WASHINGTON AREA

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Connecticut warranty reimbursement law stands!

The Supreme Court upheld a lower court warranty decision that dealers favored.

The U.S. Supreme Court has denied a petition to review a lower court decision that upheld the Connecticut new vehicle warranty reimbursement law, meaning that the law -- passed by the state to ensure fair treatment of dealers by automaker franchisors on warranty claims – stands. In April 2015, the U.S. Court of Appeals for the Second Circuit affirmed the Connecticut law, which had been challenged by the Alliance of Automobile Manufacturers. The case was Alliance of Automobile Manufacturers, Inc. v. Melody A. Currey, Commissioner of the Connecticut Department of Motor Vehicles. The Connecticut Automotive Retailers Association joined the case on behalf of the state of Connecticut as the defendant.

The Alliance alleged that the franchise law violated several provisions of the U.S. Constitution, including the Commerce Clause. The Alliance also claimed that the warranty law would harm its automakers by raising the cost for them to do business in Connecticut. Several constitutional points were examined, and in the end, the Court of Appeals and the Supreme Court upheld the law favoring dealers.

The Supreme Court decision came after a three-year fight in court by the Connecticut Attorney General on behalf of the state, NADA, and the Connecticut Auto Retailers. The result is very positive for dealers nationwide, particularly in states like Maryland and Virginia, which have warranty reimbursement laws also. WANADA *tips its hat* to its sister associations, Connecticut Auto Retailers and NADA for good team work on a job well done.

When to check for open recalls, under new federal law

The federal highway bill passed in December 2015 has two provisions relating to recalls that dealers need to keep in mind.

The first provision requires dealers to check for open recalls on vehicles of the brand(s) they sell that are in for service, if the "franchise operating or other agreement" between the dealer and manufacturer requires such a notification. The bill would allow a manufacturer to withhold fair compensation for recall repairs to a dealer who does not do so (although the franchise agreement may separately require reimbursement).

As a best practice, a dealer should have service advisors check for open recalls on all vehicles of the brand(s) for which it is franchised and notify the owners when there is an open recall. Whether the franchise agreement requires such notification or not, franchisors will likely impose that obligation through a unilateral revision of the dealer agreement or by a bulletin incorporated in the dealer agreement.

The second provision requires that -- as of June 1, 2015 -- rental companies with an average of 35 or more rental vehicles in their fleet in a calendar year will be required to *ground* recalled rental vehicles until the recall is remedied. The Safe Car Rental Act does not say whether dealer loaner vehicles are rental vehicles and whether rental vehicles owned by a dealer in several separate dealership locations are regulated as one fleet. The U.S. Secretary of Transportation has been directed to develop regulations on the issue, on which the industry may comment.

Thanks to attorney and Kindred-Line member Michael Charapp of Charapp & Weiss, LLP, for providing this information.

NADA: Horn's departure from VWoA a 'significant blow' to dealers

Hinrich Woebcken will take over Horn's role at VWoA

When President and CEO Michael Horn left Volkswagen of America, many dealers were surprised and disappointed. NADA issued a strongly worded statement that called on top VW AG officials to meet with dealers at the upcoming NADA Convention to explain the brand's vision of its future in the United States. Horn had clashed with management earlier over his plan to offer extra incentives to dealers to sell gasoline-powered cars after the diesel emissions scandal. His job will be taken over temporarily by Hinrich Woebcken, who had recently been named head of the North American region.

NADA called Horn's departure a "significant blow to the VW dealer network, which has been operating in crisis mode for more than six months." The statement continued, "What's most regrettable about Mr. Horn's departure is that it leaves more questions than answers for the 652 Volkswagen dealers across the U.S."

The emissions scandal, said NADA, "has not only negatively impacted dealership profitability due to a limitation of product available to sell, but, more significantly, has severely damaged the reputation of the brand in the eyes of consumers – damage we all know could take many years to overcome."

NADA said it is important for VW to honor the product plan that Horn and dealers fought for at the Wolfsburg conference. "U.S. dealers have made significant investments in buildings, technology and people over the past several years based on these product commitments that we hope are not in jeopardy."

In California, officials of the California Air Resources Board are considering allowing VW drivers to get a partial repair on their diesels rather than requiring the automaker to buy back the defective cars and scrap them. A regulatory official said at a legislative hearing that VW apparently is not able to do a complete repair.

Robust economic forecast for Washington region

The Washington region will have 44,000 fewer federal jobs by 2045 – but that loss will be more than offset by new private sector jobs.

An economic and demographic forecast for the Washington area from the Metropolitan Council of Governments (COG) suggests a strong economic future – with some structural changes – and a population surge.

The region lost some ground with the federal spending cuts under sequestration starting in 2011, which have cost the area almost $14 billion a year. But between now and 2025, Washington area job growth is projected to be 13% versus 10% nationwide.

Economists have said for some time that the region must become less dependent on federal jobs. COG predicts there will be 44,000 fewer of them by 2045. But 600,000 new jobs in business and professional services will be added.

And 1.5 million new people will come to live here, most of them in DC, Arlington County and the City of Alexandria. COG aims for much of the growth to be in transit-accessible, mixed use areas. Of course, many residents will still get around by their private motor vehicles, which is a good thing.

New car loan amounts, monthly payments set record highs

The average amount financed and average monthly payment for a new vehicle rose to record highs in the fourth quarter of 2015, said Experian Automotive. The average amount financed for a new vehicle was $29,551, up $1,170 from Q4 2014, and the average monthly payment increased to $493 from $482.

"People shop for vehicles largely based on monthly price, and right now, average dollar amounts for new vehicle loans are soaring," said Melinda Zabritski, Experian's senior director of automotive credit. "To stay within their budget goals, more consumers are turning to leasing and used vehicles as cost-effective alternatives to buying new."

The average lease payment for Q4 2015 was $412 (versus the average loan payment of $493). So it's not surprising that leasing reached another record high of 33.6 percent of all new financing.

Used vehicle loans made up 62.8% of all vehicle financing, and the average amount financed for a used vehicle was $18,850. The average monthly payment for a used vehicle was $359, bringing the gap between new and used vehicle monthly payments to a record high of $134.

Credit scores are flattening out for new vehicle financing, and more prime customers are shifting to used, which is increasing the average used score.

Other findings from the study:

- Reliance on financing continues to grow – 85.9% of all new vehicles and 54.7% of all used vehicles were financed.
- The average interest rate for a new vehicle loan was 4.63%, versus 8.78% for used.
- Average loan terms for new and used vehicles held steady at 67 months and 63 months, respectively.
- Loans of 73 to 84 months grew to 29% for new vehicles, and 16.4% for used.

Porsche dealers rank first in Internet lead effectiveness study

Porsche dealerships ranked highest in the annual Internet Lead Effectiveness study by Pied Piper PSI. The study measures how auto dealerships responded to customer inquiries received over the Internet.

One Internet customer in 11 surveyed failed to get any response within 24 hours.

Industry average performance dropped slightly from 2015 to 2016, with 21 of 33 brands declining. In 2016, dealers responded to half of the customer inquiries within 30 minutes, but one customer in 11 failed to receive a response of any type within 24 hours.

There are three reasons for poor performance, said Fran O'Hagan, president and CEO of Pied Piper Management Company. First, dealership handling of Internet leads is often invisible to management. Second, it's not easy to be perfect all the time. And third, O'Hagan said, third-party CRM software often fails.

Rounding out the top five automakers after Porsche were: Lexus, BMW, Ford and Mini. Among the largest manufacturers, Ford was ranked highest, with Toyota, Honda and Nissan close behind, all above the industry average. Using a *mystery shopper* process, the study looked at questions, such as: How reliably did the brand's dealerships respond within 24 hours? How often did they provide a qualified response within 30 minutes? How often did they answer the customer's specific question?

Ride sharing, car sharing pose no threat to car buying

Ride sharing services, such as Uber and Lyft, and car sharing services, such as Zipcar, pose no threat to car buying, according to a new study from Kelley Blue Book. The sharing platforms are primarily used as substitutes for taxis and traditional rental car companies, not as substitutes for owning a car. More than three-quarters of car-sharing users said they intend to buy or lease their own vehicle in the next two years.

"Our data reveals that owning a car still reigns supreme, with reliability, safety and convenience all being major factors," said Karl Brauer, senior analyst for Kelley Blue Book.

More than half of those surveyed said the main reason they don't own a car is affordability. Nearly one-quarter of respondents said they would consider a car dealership as a potential ride sharing provider.

Senate committee to hold hearing on self-driving cars

The Senate Committee on Commerce, Science and Transportation will hold a hearing on autonomous vehicles on March 15, 2016 “Hands Off: The Future of Self-Driving Cars.” Dr. Chris Urmson, director of self-driving cars at Google, will be a witness and will undoubtedly be asked about the February crash with a bus where Google was found to be at fault.

“The hearing will explore advancements in autonomous vehicle technology and its anticipated benefits for Americans,” the committee said. “Witnesses have been asked to testify on their continued efforts to develop automated vehicles, their views on the appropriate role of government in promoting innovation, including removing unnecessary hurdles and their strategy to grow consumer adoption of this new technology.”

Other witnesses are executives from General Motors; Delphi-- a leader in autonomous vehicle technology; Lyft; and Duke University. For more information, see www.commerce.senate.gov.

Staying Ahead…

Yesterday is not ours to recover, but tomorrow is ours to win or lose.

--Lyndon B. Johnson